

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 214

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO EARLY TERMINATION OF PREGNANCY; AMENDING SECTION 9-340C, IDAHO CODE, TO PROVIDE A PUBLIC RECORDS EXCEPTION; AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-260A, IDAHO CODE, TO PROVIDE FOR CERTIFICATES OF EARLY FETAL DEATH.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 9-340C, Idaho Code, be, and the same is hereby amended to read as follows:

9-340C. RECORDS EXEMPT FROM DISCLOSURE – PERSONNEL RECORDS, PERSONAL INFORMATION, HEALTH RECORDS, PROFESSIONAL DISCIPLINE. The following records are exempt from disclosure:

(1) Except as provided in this subsection, all personnel records of a current or former public official other than the public official's public service or employment history, classification, pay grade and step, longevity, gross salary and salary history, status, workplace and employing agency. All other personnel information relating to a public employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. Names of applicants to classified or merit system positions shall not be disclosed to the public without the applicant's written consent. Disclosure of names as part of a background check is permitted. Names of the five (5) final applicants to all other positions shall be available to the public. If such group is less than five (5) finalists, then the entire list of applicants shall be available to the public. A public official or authorized representative may inspect and copy his personnel records, except for material used to screen and test for employment.

(2) Retired employees' and retired public officials' home addresses, home telephone numbers and other financial and nonfinancial membership records; active and inactive member financial and membership records and mortgage portfolio loan documents maintained by the public employee retirement system. Financial statements prepared by retirement system staff, funding agents and custodians concerning the investment of assets of the public employee retirement system of Idaho are not considered confidential under this chapter.

(3) Information and records submitted to the Idaho state lottery for the performance of background investigations of employees, lottery retailers and major procurement contractors; audit records of lottery retailers, vendors and major procurement contractors submitted to or performed by the Idaho state lottery; validation and security tests of the state lottery for lottery games; business records and information submitted pursuant to sections 67-7412(8) and (9) and 67-7421(8) and (9), Idaho Code, and such documents and information obtained and held for the

1 purposes of lottery security and investigative action as determined by lottery rules unless the
2 public interest in disclosure substantially outweighs the private need for protection from public
3 disclosure.

4 (4) Records of a personal nature as follows:

5 (a) Records of personal debt filed with a public agency or independent public body
6 corporate and politic pursuant to law;

7 (b) Personal bank records compiled by a public depositor for the purpose of public funds
8 transactions conducted pursuant to law;

9 (c) Records of ownership of financial obligations and instruments of a public agency
10 or independent public body corporate and politic, such as bonds, compiled by the public
11 agency or independent public body corporate and politic pursuant to law;

12 (d) Records, with regard to the ownership of, or security interests in, registered public
13 obligations;

14 (e) Vital statistics records; and

15 (f) Military records as described in and pursuant to section 65-301, Idaho Code.

16 (5) Information in an income or other tax return measured by items of income or sales,
17 which is gathered by a public agency for the purpose of administering the tax, except such
18 information to the extent disclosed in a written decision of the tax commission pursuant to a
19 taxpayer protest of a deficiency determination by the tax commission, under the provisions of
20 section 63-3045B, Idaho Code.

21 (6) Records of a personal nature related directly or indirectly to the application for and
22 provision of statutory services rendered to persons applying for public care for the elderly,
23 indigent, or mentally or physically handicapped, or participation in an environmental or a
24 public health study, provided the provisions of this subsection making records exempt from
25 disclosure shall not apply to the extent that such records or information contained in those
26 records are necessary for a background check on an individual that is required by federal law
27 regulating the sale of firearms, guns or ammunition.

28 (7) Employment security information, except that a person may agree, through written,
29 informed consent, to waive the exemption so that a third party may obtain information
30 pertaining to the person, unless access to the information by the person is restricted by
31 subsection (3)(a), (3)(b) or (3)(d) of section 9-342, Idaho Code. Notwithstanding the provisions
32 of section 9-342, Idaho Code, a person may not review identifying information concerning
33 an informant who reported to the department of labor a suspected violation by the person
34 of the employment security law, chapter 13, title 72, Idaho Code, under an assurance of
35 confidentiality. As used in this section and in chapter 13, title 72, Idaho Code, "employment
36 security information" means any information descriptive of an identifiable person or persons
37 that is received by, recorded by, prepared by, furnished to or collected by the department of
38 labor or the industrial commission in the administration of the employment security law.

39 (8) Any personal records, other than names, business addresses and business phone
40 numbers, such as parentage, race, religion, sex, height, weight, tax identification and social
41 security numbers, financial worth or medical condition submitted to any public agency or
42 independent public body corporate and politic pursuant to a statutory requirement for licensing,
43 certification, permit or bonding.

44 (9) Unless otherwise provided by agency rule, information obtained as part of an inquiry
45 into a person's fitness to be granted or retain a license, certificate, permit, privilege, commission
46 or position, private association peer review committee records authorized in title 54, Idaho

1 Code. Any agency which has records exempt from disclosure under the provisions of this
2 subsection shall annually make available a statistical summary of the number and types of
3 matters considered and their disposition.

4 (10) The records, findings, determinations and decisions of any prelitigation screening
5 panel formed under chapters 10 and 23, title 6, Idaho Code.

6 (11) Complaints received by the board of medicine and investigations and informal
7 proceedings, including informal proceedings of any committee of the board of medicine,
8 pursuant to chapter 18, title 54, Idaho Code, and rules adopted thereunder.

9 (12) Records of the department of health and welfare or a public health district that
10 identify a person infected with a reportable disease.

11 (13) Records of hospital care, medical records, including prescriptions, drug orders,
12 records or any other prescription information that specifically identifies an individual patient,
13 prescription records maintained by the board of pharmacy under sections 37-2726 and
14 37-2730A, Idaho Code, records of psychiatric care or treatment and professional counseling
15 records relating to an individual's condition, diagnosis, care or treatment, provided the
16 provisions of this subsection making records exempt from disclosure shall not apply to
17 the extent that such records or information contained in those records are necessary for a
18 background check on an individual that is required by federal law regulating the sale of
19 firearms, guns or ammunition.

20 (14) Information collected pursuant to the directory of new hires act, chapter 16, title 72,
21 Idaho Code.

22 (15) Personal information contained in motor vehicle and driver records that is exempt
23 from disclosure under the provisions of chapter 2, title 49, Idaho Code.

24 (16) Records of the financial status of prisoners pursuant to subsection (2) of section
25 20-607, Idaho Code.

26 (17) Records of the Idaho state police or department of correction received or maintained
27 pursuant to section 19-5514, Idaho Code, relating to DNA databases and databanks.

28 (18) Records of the department of health and welfare relating to a survey, resurvey or
29 complaint investigation of a licensed nursing facility shall be exempt from disclosure. Such
30 records shall, however, be subject to disclosure as public records as soon as the facility in
31 question has received the report, and no later than the fourteenth day following the date that
32 department of health and welfare representatives officially exit the facility pursuant to federal
33 regulations. Provided however, that for purposes of confidentiality, no record shall be released
34 under this section which specifically identifies any nursing facility resident.

35 (19) Records and information contained in the registry of immunizations against
36 childhood diseases maintained in the department of health and welfare, including information
37 disseminated to others from the registry by the department of health and welfare.

38 (20) Records of the Idaho housing and finance association (IHFA) relating to the
39 following:

40 (a) Records containing personal financial, family, health or similar personal information
41 submitted to or otherwise obtained by the IHFA;

42 (b) Records submitted to or otherwise obtained by the IHFA with regard to obtaining and
43 servicing mortgage loans and all records relating to the review, approval or rejection by
44 the IHFA of said loans;

45 (c) Mortgage portfolio loan documents;

(d) Records of a current or former employee other than the employee's duration of employment with the association, position held and location of employment. This exemption from disclosure does not include the contracts of employment or any remuneration, including reimbursement of expenses, of the executive director, executive officers or commissioners of the association. All other personnel information relating to an association employee or applicant including, but not limited to, information regarding sex, race, marital status, birth date, home address and telephone number, applications, testing and scoring materials, grievances, correspondence, retirement plan information and performance evaluations, shall not be disclosed to the public without the employee's or applicant's written consent. An employee or authorized representative may inspect and copy that employee's personnel records, except for material used to screen and test for employment or material not subject to disclosure elsewhere in the Idaho public records act.

(21) Records of the department of health and welfare related to child support services in cases in which there is reasonable evidence of domestic violence, as defined in chapter 63, title 39, Idaho Code, that can be used to locate any individuals in the child support case except in response to a court order.

(22) Records of the Idaho state bar lawyer assistance program pursuant to chapter 49, title 54, Idaho Code, unless a participant in the program authorizes the release pursuant to subsection (4) of section 54-4901, Idaho Code.

(23) Records and information contained in the trauma registry created by chapter 20, title 57, Idaho Code, together with any reports, analyses and compilations created from such information and records.

(24) Records contained in the court files, or other records prepared as part of proceedings for judicial authorization of sterilization procedures pursuant to chapter 39, title 39, Idaho Code.

(25) The physical voter registration card on file in the county clerk's office; however, a redacted copy of said card shall be made available consistent with the requirements of this section. Information from the voter registration card maintained in the statewide voter registration database, including age, will be made available except for the voter's driver's license number, date of birth and, upon showing of good cause by the voter to the county clerk in consultation with the county prosecuting attorney, the physical residence address of the voter. For the purposes of this subsection good cause shall include the protection of life and property and protection of victims of domestic violence and similar crimes.

(26) File numbers, passwords and information in the files of the health care directive registry maintained by the secretary of state under section 39-4515, Idaho Code, are confidential and shall not be disclosed to any person other than to the person who executed the health care directive or the revocation thereof and that person's legal representatives, to the person who registered the health care directive or revocation thereof, and to physicians, hospitals, medical personnel, nursing homes, and other persons who have been granted file number and password access to the documents within that specific file.

(27) Records in an address confidentiality program participant's file as provided for in chapter 57, title 19, Idaho Code, other than the address designated by the secretary of state, except under the following circumstances:

- (a) If requested by a law enforcement agency, to the law enforcement agency; or
- (b) If directed by a court order, to a person identified in the order.

1 (28) Neither an application for a certificate of early fetal death, nor a certificate of early
2 fetal death as provided for in section 39-260A, Idaho Code.

3 SECTION 2. That Chapter 2, Title 39, Idaho Code, be, and the same is hereby amended
4 by the addition thereto of a NEW SECTION, to be known and designated as Section 39-260A,
5 Idaho Code, and to read as follows:

6 39-260A. CERTIFICATE OF EARLY FETAL DEATH. (1) As used in this section:

7 (a) "Bureau" means the bureau of health policy and vital statistics of the department of
8 health and welfare.

9 (b) "Early fetal death" means a spontaneous fetal death or induced abortion prior to
10 twenty (20) weeks of gestation, based on a clinical estimate of gestation.

11 (2) In the event of an early fetal death, the mother of a deceased fetus may request an
12 application for certificate of early fetal death from the bureau. The application shall be on a
13 form as specified by the bureau and shall provide for the name of the mother of the deceased
14 fetus, the date of the early fetal death and, if appropriate, the name and title of an attendant at
15 or immediately after the early fetal death.

16 (3) Upon receipt of a completed application pursuant to subsection (2) of this section
17 and payment of a reasonable fee as established by the director by rule, the bureau shall issue a
18 certificate of early fetal death to the mother on a form as specified by the bureau, reflecting the
19 information provided in the completed application.

20 (4) In the performance of its duties pursuant to this section, the bureau shall not be
21 required to investigate any early fetal death and shall not be held responsible for the accuracy
22 of any information contained in an application for the certificate of early fetal death received by
23 the bureau or a certificate of early fetal death issued by the bureau.

24 (5) Neither the application for certificate of early fetal death received by the bureau, nor
25 the certificate of early fetal death issued by the bureau pursuant to this section shall be a public
26 record.